UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

S & L VITAMINS, INC., Plaintiff, - vs. – AUSTRALIAN GOLD, INC., Defendant.	CIVIL ACTION NO. 05-CV-1217 (JS) (MLO)
AUSTRALIAN GOLD, INC., Third Party Plaintiff, - vs. – LARRY SAGARIN AND JOHN DOES 1-10, Third Party Defendants.	**ORDER GRANTNG SUMMARY JUDGMENT AND DECLARATORY JUDGMENT**

BEFORE Seybert, J., U.S.D.J.:

THIS MATTER having been brought before the Court upon application of Bragar, Wexler & Eagel, P.C., attorneys for the plaintiff and third party defendant, Ronald D. Coleman, Esq. and David Marc Nieporent, Esq., appearing, and the Court having considered the Memorandum of Law and the factual submissions and affirmations submitted by the plantiff and third party defendant, the opposition submissions, and the arguments of counsel, and for other good cause,

IT IS on this ______ day of ________, 2007:

ORDERED that the Motion by plantiff and third party defendant for summary judgment

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in their favor of counts 1-10 of defendant's counterclaim and third party claim, pursuant to Federal Rule of Civil Procedure 56, is hereby granted; and it is

FURTHER ORDERED AND DECLARED:

1. That plaintiff’s use of the various trademarks and alleged trademarks associated with Australian Gold Products does not infringe any trademark or other right held by defendant;
2. That plaintiff’s sale of Australian Gold Products is not an actual or prospective tortious interference with contract;
3. That defendant, its officers, directors, servants, employees, attorneys, agents, representatives, distributors, and all persons in active concert or participation with it, be and hereby are enjoined and restrained permanently from interfering with plaintiff’s lawful use of the various trademarks and alleged trademarks associated with Australian Gold Products;
4. That a pretrial conference with respect to plaintiff’s remaining claims and with respect to the assessment of damages be scheduled for ____________, 2007.

It is on this ___________ day of ___________, 2007, **SO ORDERED**:

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Hon Joanna Seybert, U.S.D.J.